

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JORGEN JOHANNSEN,

Defendant.

8:21-CR-182

ORDER

This matter is before the Court to conduct an initial review of Defendant Jorgen Johannsen's *pro se* Motion to Vacate, Set Aside, or Correct Sentence under [28 U.S.C. § 2255](#). [Filing 80](#). In his Motion, Johannsen raises four grounds for habeas relief, all related to ineffective assistance of counsel. *See Filing 80 at 4-11*. Johannsen describes these four claims as follows: (1) Failure to Investigate; (2) Failure to Object/Advocate; (3) Failure to Appeal; and (4) "Failure to sufficiently advise client in regard to failed Miranda warnings and impermissible use of two-step tactic." [Filing 80 at 4-11](#). Johannsen filed a brief in support of his Motion that further elaborates on the nature of his ineffective assistance of counsel claims. *See generally Filing 81*. Along with his brief, Johannsen also included a signed affidavit and what purports to written message he sent to his attorney on January 7, 2023. [Filing 81 at 38-33](#).

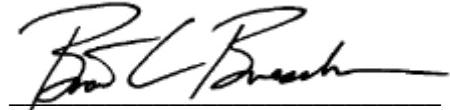
The judge receiving a [§ 2255](#) motion to vacate must first determine if "it plainly appears from the motion, any attached exhibits, and the record of prior proceedings that the moving party is not entitled to relief." *See Rule 4(b) of the Rules Governing Section 2255 Proceedings.* "Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief," the Court must order the United States to respond and consider holding a hearing. [28 U.S.C. § 2255\(b\)](#); *see also Rule 4(b) of the Rules Governing Section 2255 Proceedings.*

The Court has conducted an initial review and, for at least one of Johannsen's grounds, the Court cannot conclude that it "plainly appears" he is not entitled to relief. Therefore, the Court orders the United States to respond to the grounds presented in Johannsen's Motion within twenty-one (21) days of the date of this order. The Court defers determining whether it is necessary to hold a hearing until it has reviewed the United States' response. Accordingly,

IT IS ORDERED that the United States shall respond to Jorgen Johannsen's § 2255 Motion, Filing 80, within twenty-one (21) days of the date of this order.

Dated this 9th day of January, 2024.

BY THE COURT:



Brian C. Buescher
United States District Judge